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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	NO. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and)	Honorable Susan Getzendanner
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

NOTICE OF FILING

TO: All counsel on attached
Service List

PLEASE TAKE NOTICE that we have this date filed
DEFENDANT MONSANTO COMPANY'S AMENDED REQUESTS FOR ADMISSION
TO PLAINTIFF UNITED STATES, a true copy of which is attached
hereto and served upon you.

This 26th day of April, 1982.

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16-5V28.01082

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FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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DEFENDANT MONSANTO COMPANY'S AMENDED
REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

1. Dr. Wayland Swain is employed by the United States E.P.A. as Chief of its Large Lakes Research Laboratory at Grosse Ile, Michigan. He has been employed by U.S.E.P.A. since 1976.

2. Dr. Swain is familiar with data reporting PCB levels in fish caught in Lake Michigan. He is familiar with the PCB levels in fish from Lake Michigan as reported by the United States Fish & Wildlife Service.

3. The United States Fish & Wildlife Service has surveyed the PCB levels in Lake Michigan lake trout, coho salmon and bloater chubs. The Fish & Wildlife Service survey for total PCBs began in 1972. Lake Michigan fish have been caught at selected locations and analyzed for PCB residue. The PCB levels for lake trout, coho salmon and bloater chubs are reported on a whole fish basis.

4. Dr. Swain is familiar with scientific estimates of the amount of PCB going into Lake Michigan each year.

5. On March 15, 1982, Dr. Swain gave a speech at an International Symposium on PCBs in the Great Lakes in East Lansing, Michigan. Dr. Swain attended the conference and gave his speech in his capacity as Chief of the E.P.A.'s Large Lakes Research Laboratory.

6. Concerning efforts by the United States to monitor PCB levels in fish in Lake Michigan, Dr. Swain stated at the conference:

"The most remarkable data set in existence for Great Lakes fish is the information contained in the U.S. Fish and Wildlife Service's Contaminant Monitoring Program. The data are literally worth their weight in gold."

7. According to Dr. Swain, the U.S. Fish & Wildlife Service data on the PCB levels in bloater chubs "shows a relatively continuous downward trend after 1974."

To illustrate this decline in PCB levels in chubs, Dr. Swain put the PCB data for chubs on a graph, which is attached as Exhibit A, and displayed it at the conference. Exhibit A shows a continuous downward trend in the total PCB levels in chubs, measured on a whole fish basis.

8. According to Dr. Swain, because chubs have a "relatively short life cycle, as compared with lake trout for example," PCB levels in chubs "ought to reasonably reflect levels of PCB in the water column at the time the sample was taken. This is important, because of the lack of historically reliable time-sequence measurements of water column concentrations."

9. Thus, it is Dr. Swain's opinion that the "continuous downward trend" in the PCB levels in Lake Michigan bloater chubs reflects a similar downward trend in the PCB levels in the water column of Lake Michigan.

10. According to Dr. Swain, based on U.S. Fish & Wildlife Service data, PCB "concentrations in lake trout also seem to be declining, as do the PCBs in coho salmon".

11. Dr. Swain stated that "the decrease in all three species of fish suggest an overall reduction in the loads of PCB applied to Lake Michigan."

12. Dr. Swain then used "numerical simulation, applying a least-squares fit to determine the net loadings of PCB to Lake Michigan necessary to produce each of the

historic data points in the bloater chub curve" to estimate "the sequential reductions in historical total loadings" of PCBs. Dr. Swain then applied these reductions into the future "to estimate the loss rates for PCBs in each species of fish."

13. To illustrate this, Dr. Swain drafted Exhibit B, which is attached, and which he showed to the audience at the conference in East Lansing, Michigan. The graph shows projections into the future of continuously declining levels of PCBs in Lake Michigan chubs, lake trout and coho salmon. The PCB levels are stated on a whole fish basis.

14. According to Dr. Swain: "The calculation suggests that under the scenario projecting continuously decreasing loadings" of PCB into Lake Michigan, "similar to those that have apparently occurred historically, coho salmon consistent with those" in the U.S. Fish & Wildlife Service "data set would have reached the five part per million level in 1980, and lake trout with size and age characteristics similar to those previously collected will achieve five parts per million by 1984." These projections are to PCB levels of five parts per million on a whole fish basis.

15. Dr. Swain stated that: "The projected times to two parts per million are 1986 and 1989 for coho and lake trout, respectively." These projections to PCB levels of two parts per million are on a whole fish basis.

CERTIFICATE OF SERVICE

BRUCE A. FEATHERSTONE hereby certifies that on April 26, 1982, he caused copies of DEFENDANT MONSANTO COMPANY'S AMENDED REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to be hand delivered to all counsel on the attached Service List.

Bruce A. Featherstone
Attorney for MONSANTO COMPANY

16. In making this projection of the time required for Lake Michigan lake trout and coho salmon to reach five parts per million and two parts per million on a whole fish basis, Dr. Swain did not assume that Waukegan Harbor and the North Ditch are dredged of PCBs.

DATED: April 26, 1982

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